

## ATTACHMENT 1: GUIDE FOR FILING FEDERAL CIVIL SUITS



**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF WEST VIRGINIA**

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**GUIDE FOR FILING FEDERAL CIVIL SUITS**

The following information explains court procedures and requirements. Each case filed with the Court is unique and must satisfy certain legal standards. You should not rely on this information to identify those standards. You should be especially mindful that there are certain time limits within which lawsuits must be brought, or in which to answer lawsuits brought by others. Failure to observe those time limits could be prejudicial and may result in the case being dismissed or otherwise decided against you.

To initiate a civil action in this Court, you must complete the following documents and submit them to the Clerk of Court for filing:

**COMPLAINT**

A guide for preparing your complaint is enclosed. Make sure to follow these guidelines:

- complete all forms as thoroughly as possible
- use letter size paper only (8 1/2 x 11)
- sign all documents
- send the original and one copy for each named defendant
- do not use staples
- do not use pencil: use black or blue pens only
- do not bind documents
- write only on the fronts of documents, do not write on the backs of documents

Set up your complaint in the manner shown below, using the heading of the court at the top as shown, naming the parties (plaintiff vs. defendant) and stating in the body of the complaint your claim and demand for relief. Sign and date the complaint at the end. Complaints against state personnel are filed under 42 U.S.C. § 1983; complaints against federal personnel are filed under 28 USC 1331b and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). **Do NOT use 42 U.S.C. § 1983 to apply for a writ of habeas corpus or to challenge the sentence you received in state or federal court.**

**SUMMONS**

The rules require that the Clerk of Court issue the Summons, but you should prepare the summons and submit the original and two copies to the court, plus an additional copy for each defendant, for issuance by the Clerk. If you are suing an agency for the government, submit an original and six (6) copies. Some forms are enclosed for your use.

## **FILING FEE, APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT**

The FILING FEE for filing a civil action in federal court is \$350.00 (money order or credit card only; no cash or personal checks accepted; make money order payable to "Clerk, U.S. District Court"). However, if you qualify, you may be allowed to proceed without prepaying the filing fee. If you feel you cannot afford to pay the fee, complete the Application to Proceed Without Prepayment of Fees and Affidavit form and submit it to the Clerk of Court, who will submit your application to the Court for a ruling. If you are allowed to proceed without prepayment of fees, your complaint will be filed. If your application is denied, you must pay your filing fee before your complaint will be filed. Be sure to complete this form, answering all questions in detail, or it will be returned to you for completion.

### **CIVIL COVER SHEET**

This form's purpose is to give the Court an overview of the basis for your civil action. Please complete each box as it applies to your case and submit the original to the Court with the complaint, summons, and Application to Proceed In Forma Pauperis (if applicable).

### **SCREENING**

If your application to proceed without prepayment of fees is granted, your complaint will be screened to determine if it is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks relief against a defendant who is immune from such relief. If it is determined that your complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks relief against a defendant who is immune from such relief, your complaint will be dismissed and the summons will not be issued.

### **SERVICE OF THE SUMMONS AND COMPLAINT**

If you pay the required filing fee and file your complaint with the Clerk's Office (Clerk), the summons will be issued (signed and sealed by the Clerk). You must arrange for SERVICE of the summons and complaint on each defendant in the case. You must have the defendant(s) served in accordance with Rule 4 of the Federal Rules of Civil Procedure. Once you have served the defendant(s), you must file with the Clerk proof of service using the Return of Service section of the summons form.

After completing the complaint and all applicable forms, proofread them to ensure compliance with all instructions. Return the completed forms and the correct number of copies to the appropriate point of holding court:

Clerk, U.S. District Court  
PO Box 2857  
Clarksburg, WV 26302

Clerk, U.S. District Court  
217 W. King St., Room 102  
Martinsburg, WV 25401

Clerk, U.S. District Court  
PO Box 471  
Wheeling, WV 26003

Clerk, U.S. District Court  
PO Box 1518  
Elkins, WV 26241

### FILING DOCUMENTS AFTER SERVICE HAS BEEN ISSUED

Documents filed with the Clerk of Court after the service has been issued on the defendants must be filed with the Court in writing in the form of a pleading, e. g.: motion, notice, memorandum, etcetera.

You must serve the defendant(s) or defense counsel with a copy of every pleading, letter, or other document submitted for consideration by the Court. The original of all documents filed with the Clerk should have a "Certificate of Service" (attached).

Any pleading or other document submitted to the Clerk of Court for filing which does not bear a proper Certificate of Service may be returned to the submitting party. All instruments (pleadings, letters, motions, or other documents) pertaining to your case must be signed by all plaintiffs and must state the civil action number (case number). All documents and correspondence submitted to the Clerk of Court should be on letter-sized paper (8 ½ x 11 inches). Please do not use legal-size (8 ½ x 14 inches) paper. Always submit two additional copies with the original of any document to the Clerk of Court for its files.

### IMPORTANT ADDITIONAL INFORMATION

1. IF YOU DO NOT KEEP THE COURT ADVISED OF YOUR CURRENT ADDRESS, YOUR CASE MAY BE DISMISSED FOR WANT OF PROSECUTION.
2. It is improper to communicate directly with Judges or Magistrate Judges concerning matters that may become a subject in their Court.
3. It is improper for the Clerk, Judges, or Magistrate Judges to give legal advice to litigants.

Thank you in advance for your cooperation regarding these instructions.

AT THE DIRECTION OF THE COURT

Wally Edgell, Ph.D., Clerk

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA

*(The following is a guide for preparing your complaint)*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff,

v.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant(s)

COMPLAINT

CIVIL ACTION NO. \_\_\_\_\_

Paragraph 1: Jurisdiction

Paragraph 2, etc. : Short and plain statement of the claim showing that the pleader is entitled to relief.

Final paragraph: Demand for judgment for the relief to which the party deems himself entitled.

\_\_\_\_\_  
Plaintiff, Pro Se

\_\_\_\_\_  
Date

NOTE: This form is ONLY A GUIDE; do NOT fill it in. Use a plain sheet of 8 ½ x 11 inch paper and set up your complaint in this format. In Paragraph 1, state the reason that you believe the Federal Court has jurisdiction of the matter about which you are filing your complaint. In paragraph 2, state the problem or the thing about which you are complaining and why you think you are entitled to relief or redress. In the last paragraph, state the amount of damages or the kind of relief to which you think you are entitled. Please type or legibly hand write your complaint. Do not use a pencil to hand write your complaint. DOUBLE-SPACE your complaint, and submit the original and two copies to the Clerk of Court, plus one additional copy for each defendant to be served.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff,

v.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant(s)

Civil Action No.: \_\_\_\_\_

Certificate of Service

I, (your name here), appearing pro se, hereby certify that I have served the foregoing (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on (insert date here):

*(List name and address of counsel for defendant(s))*

\_\_\_\_\_  
*(sign your name)*

**NOTICE, CONSENT, AND ORDER OF REFERENCE  
EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE**

Case Number:

*Northern District of West Virginia*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

\_\_\_\_\_  
\_\_\_\_\_

v.

Civil Action No.: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certificate of Service

I, (your name here), appearing pro se, hereby certify that I have served the foregoing (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on (insert date here):

*(List name and address of counsel for defendant(s))*

\_\_\_\_\_  
*(sign your name)*

**UNITED STATES DISTRICT COURT**  
Northern District of West Virginia

\_\_\_\_\_  
Plaintiff,

V.

APPLICATION TO PROCEED WITHOUT  
PREPAYMENT OF FEES AND  
AFFIDAVIT

CASE NUMBER:

\_\_\_\_\_  
Defendant.

**Affidavit in Support of Motion**

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my action or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: \_\_\_\_\_

**Instructions**

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: \_\_\_\_\_

*1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amount, that is amounts before any deductions for taxes or otherwise.*

Income Source	Average Monthly Amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ _____	\$ _____	\$ _____	\$ _____
Self-Employment	\$ _____	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____

Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-Assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify):	\$ _____	\$ _____	\$ _____	\$ _____
<b>Total monthly income:</b>	\$ _____	\$ _____	\$ _____	\$ _____

2. List your employment history with most recent employer first (Gross monthly pay is before taxes or other deductions).

Employer	Address	Dates of Employment	Gross Monthly Pay
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

3. List your spouse's employment history with most recent employer first (Gross monthly pay is before taxes or other deductions).

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. How much cash do you and your spouses have? \$ \_\_\_\_\_

Below, state any money you or your spouse have in bank accounts or in any other financial institution

Financial Institution	Type of Account	Amount you have	Amount your spouse has
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor vehicle #1 (Value)
_____	_____	Make & year: _____
_____	_____	Model: _____
_____	_____	Registration #: _____
Motor vehicle #2 (Value)	Other assets (Value)	Other assets (Value)
Make & year: _____	_____	_____
Model: _____	_____	_____
Registration #: _____	_____	_____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. State the persons who rely on you or your spouse for support.

Initials	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semi-annually or annually to show the monthly rate.

	You	Your Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ _____	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ _____	\$ _____
Home maintenance (repairs and upkeep)	\$ _____	\$ _____
Food	\$ _____	\$ _____
Clothing	\$ _____	\$ _____
Laundry and dry cleaning	\$ _____	\$ _____
Medical and dental expenses	\$ _____	\$ _____

Transportation (not including motor vehicle payment)	\$ _____	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)	\$ _____	\$ _____
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments) (specify): _____	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit Card (name): _____	\$ _____	\$ _____
Department Store (name): _____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to other	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
<b>Total monthly expenses:</b>	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes    ☐ No    If yes, describe on an attached sheet

10. Have you paid-or will you be paying- an attorney any money for services in connection with this case including the completion of this form? ☐ Yes ☐ No

If yes, how much? \$ \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Have you paid-or will you be paying-anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☐ No

If yes, how much? \$ \_\_\_\_\_

If yes, state the person's name, address, and telephone number:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.